

# **THE BOARD OF DENTAL EXAMINERS**

## **JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE REPORT TO THE CALIFORNIA LEGISLATURE**

---

**Board Overview, Issues, Findings  
and Recommendations**

---

**Prepared by:  
Joint Legislative Sunset Review Committee**

**APRIL, 1997**

# **JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE**

**Senator Leroy Greene**  
Chairman

## **Senate Members**

Senator Maurice Johannessen  
Senator Richard Polanco

## **Assembly Members**

Assemblymember Susan Davis (VC)  
Assemblymember Elaine Alquist  
Assemblymember Bill Campbell

## **Staff**

Bill Gage  
Consultant

## **Staff Assistance Provided By:**

Jay DeFuria  
Consultant  
Senate Business and Professions Committee

G.V. Ayers  
Consultant  
Senate Business and Professions Committee

Michael Abbott  
Consultant  
Senate Business and Professions Committee

Sailaja Cherukuri  
Analyst  
Legislative Analyst Office

## **TABLE OF CONTENTS**

<b>1. Overview of the Current Regulatory Program .....</b>	<b>1</b>
<b>2. Issues and Final Recommendations .....</b>	<b>13</b>

## 1.

# OVERVIEW OF THE CURRENT REGULATORY PROGRAM

## BACKGROUND AND DESCRIPTION OF THE BOARD

The statutory laws governing the regulation of dental care are located in the Dental Practice Act (DPA) - B&P Code Sections 1600-1808. The related administrative regulations are located at Title 16, Code of California Regulations (CCR) - Sections 1000-1089.

The Board of Dental Examiners (Board or BDE) was created by the California Legislature in 1885, and was originally established to regulate dentists. Today the Board regulates the practice of 67,000 dental health professionals, including 29,000 licensed dentists, 13,000 registered dental hygienists (RDHs), 25,000 registered dental assistants (RDAs), 400 registered dental hygienists and registered dental assistants in extended functions (RDHEFs and RDAEFs), and an unspecified number of unlicensed dental assistants (DAs).

The Board is composed of fourteen (14) members, of which eight (8) are licensed dentists, two are dental auxiliaries (1 RDH and 1 RDA), and four (4) are public members. The eight licensed dentists members, the two dental auxiliary members, and two of the public members are appointed by the Governor. The remaining two public members are appointed by the Legislature - one by the Senate Rules Committee and one by the Speaker of the Assembly.

The Board has six statutory created committees (Diversion, Committee on Dental Auxiliaries (COMDA), Examining Committee, Examination Committee, Auxiliary Committee, & Enforcement Committee.) In addition, the Board's operational committee structure includes five standing subcommittees: appeals, budget, legislation, continuing education and disciplinary decision and guideline review. In 1994, an Executive Committee was created to make recommendations on requests for proposed regulatory changes, monitor the progress of the Board's long-range plan, and to provide an initial review on all matters to be considered by the full Board.

The Committee on Dental Auxiliaries (COMDA) is a statutorily created organization within the jurisdiction of the California Board of Dental Examiners (BDE or Board). The legislation that created COMDA was enacted in 1974. The Committee currently does not have any statutorily-granted regulatory powers but is advisory in nature, being authorized by statute to make recommendations to the BDE regarding dental auxiliaries.

The Committee also performs various ministerial, regulatory functions related to the licensure and regulation of dental auxiliaries that have been delegated to it by the Board (administration of exams, evaluation of educational programs, etc.)

As an adjunct to COMDA, the Board has a standing Auxiliary Committee to review the recommendations of COMDA and make their own recommendations for full Board approval or denial. Auxiliary policy is recommended by this Committee. In addition to the recommendations of COMDA, this Committee may propose changes to any aspect of auxiliary practice. The Committee is composed of three dentists, one registered dental hygienist, and one registered dental assistant.

## **BUDGET AND STAFF**

The main sources of revenue for the Dental Board are generated from candidates taking the examination(s), and for the issuance and renewal of licenses. It is not clear that the fees collected from candidates taking the examination support the examination program, and fees for licensure and renewal of licenses support the license, enforcement, and administration programs. There may be some cross-subsidization occurring currently.

The Board's projected expenditures for fiscal year 1996/97 are about \$5.75 million, or an increase of \$1.5 million (37%) over actual 1992/93 expenditures four years ago. Anticipated revenues are about \$5.4 million, or approximately \$350,000 less than its expenditures. The Board's fund reserve at the end of 1995/96 was about \$1 million or 2.3 months of operating expenditures. As of June 30, 1997, the Board expects its reserve to drop to about \$657,000, or 1.4 months of operating reserves. The Board's budget is projected to have a fund reserve of only \$100,000 (0.2 months) by the end of 1997/98, and experience a deficit of about \$578,000 or ( minus 1.1 months) by the end of 1998/99. The Board is proposing to rectify this impending shortfall by requesting an increase in its statutory fee limits next year (e.g., from \$250 to \$750 for dentist licenses.)

For fiscal year 1996/97, the Board expects to spend \$1.2 million on the administration of its examinations and its licensing functions, or about 20% of its total budget. The Board expects to spend approximately \$0.57 million on its administration functions or about 9% of its total budget. The Board expects to spend \$3.97 million on enforcement, or 77% of its total budget. Other Boards spend on average about 7% of their budget on examinations and 66% on enforcement.

The Board had 48.8 authorized staff positions and an additional 6.1 staff blanket positions in 1995/96. The Board is not anticipating any changes in the number of staff positions. The enforcement unit has a staff of 31 people, including 19 sworn peace officers ("investigators) and 2 inspectors.

## FEES

The Board's license is good for two years. The Board's current fee structure is as follows:

Fee Schedule	Current Fee	Statutory Limit
Clinical Initial Application	\$100	\$250
Restorative Technique Initial App	\$250	\$250
Clinical Exam	\$450	\$450
Restorative Technique Exam Fee	\$250	\$450
Initial License	\$240	\$250
Biennial Renewal License	\$240	\$250
Special Permit Application	\$556	"equals exam fees"
Corporation Application	\$200	no statutory max.

## LICENSING REQUIREMENTS

"Dentistry" is defined by the DPA as the diagnosis or treatment, by surgery or other method, of diseases and lesions, and the correction of malpositions of the human teeth, alveolar process, gums, jaws, or associated structures; and such diagnosis may include all necessary related procedures as well as the use of drugs, anesthetic agents, and physical evaluation.

To become licensed as a dentist in California, a candidate must meet educational and examination requirements. The Board has two tracks for licensure based upon educational background: one track for graduates of ADA accredited dental schools and a second track for graduates of non-ADA accredited dental schools. Table 1 outlines the examination requirements for both tracks.

<b>Table 1</b>	
<b>Summary of Examination Requirements</b>	
<b>Applicants from Accredited Schools</b>	<b>Applicants from Non-Accredited Schools</b>
<b>National Board Exam, Parts 1 and 2</b>	<b>National Board Exam, Parts 1 and 2</b>
	<b>Restorative Technique Exam</b>
<b>Clinical Dental Licensure Exam (Written, Prosthetic Laboratory, and Clinical Sections)</b>	<b>Clinical Dental Licensure Exam (Written, Prosthetic Laboratory, and Clinical Sections)</b>

All of the states and U.S. jurisdictions have licensing requirements similar to those in California, although California is one of few states where graduates from non-accredited dental schools may apply for licensure.

Table 2 and 3 provide the passage rates for both the Clinical Examination and Restorative Technique Examination from 1992 to 1995.

<b>Table 2</b> <b>Annual Clinical Examination Administration Volume</b> <b>1992 Through 1995</b>					
Activity	Calendar Year				Average
	1992	1993	1994	1995	
Percentage Passed	54%	51%	65%	63%	58%
Number Passed	844	794	931	764	833
Number Failed	709	752	497	444	600

<b>Table 3</b> <b>Annual Restorative Technique Examination Administration Volume</b> <b>1992 Through 1995</b>					
Activity	Calendar Year				Average
	1992	1993	1994	1995	
Percentage Passed	34%	42%	41%	40%	39%
Number Passed	282	221	202	226	233
Number Failed	582	297	283	343	376

## CONTINUING EDUCATION/COMPETENCY REQUIREMENTS

The BDE is authorized by statute to require continuing education (CE) of dentists and dental auxiliaries as a condition of license renewal. The Board has adopted regulations pursuant to this statutory authority to prescribe the amount and type of CE for its licensees. All licensed dental auxiliaries are required to complete 25 hours of continuing education every two years as a condition for license renewal, including courses in life support, California law, and infection control. (Nationally, 41 other states require continuing education ranging from 12 to 30 hours every two years.) Apart from requiring CE, the Board does not have a program to assure continuing competence of any of its licensees, dentists or auxiliaries. Nor does the Board require remedial education for licensees found to be guilty of incompetence or negligence.

## ENFORCEMENT ACTIVITY

## **Inquiries and Complaints**

The Board received on average about 10,000 enforcement inquiries per year over the past four years. Of the approximately 10,000 enforcement-related inquiries that the Board receives each year, about 2,800 represent actual complaints filed. The Board closes about 2,980 complaint cases a year. This statistic also reflects cases closed that were open in prior years.

Tables 4, 5 and 6 provide the number of inquiries and complaints received, pending and closed by the Board from 1991/92 through 1994/95.

**Table 4**  
**Enforcement Program Inquires Received**  
**Fiscal Years 1991/92 Through 1994/95\***

	1992/93	1993/94	1994/95	1995/96	Average
Jurisdictional	7,822	8,992	9,185	11,792	9,448
Non-Jurisdictional	791	882	894	530	774
Referrals	531	671	721	455	595
Total inquiries received	9,144	10,545	9,800	12,777	10,544

\*CAS and Agency Statistical Profile.

**Table 5**  
**Complaints Received, Pending and Closed**  
**Fiscal Years 1992/93 Through 1995/96\***

	1992/93	1993/94	1994/95	1995/96	Average
<b>Received:</b>					
Dentists	2,820	2,712	2,793	2,738	2,765
Auxiliaries	25	29	38	58	37
<b>Total</b>	2,845	2,741	2,831	2,769	2,803
<b>Pending:</b>					
Dentists	1,789	1,438	1,101	1,170	1,375
Auxiliaries	19	15	11	30	19
<b>Total</b>	1,808	1,453	1,112	1,200	1,393
<b>Closed:</b>					
Dentists	2,554	3,176	3,129	2,696	2,889
Auxiliaries	20	38	29	50	34
<b>Total</b>	2,574	3,214	3,158	2,746	2,923

\* Source: Agency Statistical Report



**Table 6**  
**Complaints Closed By Type**  
**Fiscal Years 1991/92 Through 1994/95\***

	1992/93	1993/94	1994/95	1995/96	Average
Fraud	249	409	262	271	298
Non-Jurisdictional	104	159	163	161	147
Unlicensed/ Unregistered	148	230	200	100	170
Incompetence/ Negligence	1,493	1,930	1,888	1,753	1,766
Service Quality	N/A	2	0	0	0
Unprofessional Conduct	304	438	435	232	352
Personal Conduct	160	181	117	107	141
Health and Safety	76	125	94	116	103
Other:	2	8	2	0	3
Total Closed	2,536	3,482	3,161	2,740	2,980

\* Source = Agency Statistical Report , Licensed and Unlicensed Activity

**Unlicensed Activity Complaints Closed**  
**Fiscal Years 1991/92 Through 1994/95\***

	1992/93	1993/94	1994/95	1995/96	Average
Closed:					
Dentist	125	172	137	159	148
Auxiliary	5	11	8	7	8
Total	130	183	145	166	156

\* Source = Agency Statistical Report

## **Investigations**

The members of the Board have set investigation priorities based on the type of violation and potential harm to the public. In this manner, the enforcement team can allocate resources where they are most needed. The priority classifications are:

- Priority 1: Death, permanent injury, patient abuse.
- Priority 2: Gross negligence, incompetence, drug/sexual abuse, mental illness, unlicensed practice.
- Priority 3: Fraud, out-of-state board action, statement of issues, unsafe or unsanitary conditions.
- Priority 4: Lessor violations involving advertising, fictitious names, additional office or referral services.

Table 7 provides the number of investigation cases commenced and completed by type over the past four years.

**Table 7**  
**Investigation Cases Commenced and Completed By Type.**  
**Fiscal Years 1992/93 Through 1995/96**

	1992/93	1993/94	1994/95	1995/96
Fraud:				
Opened	45	60	49	37
Completed	31	61	62	58
Health & Safety:				
Opened	21	8	9	7
Completed	13	24	18	8
Incomp./Negligence:				
Opened	199	174	230	226
Completed	112	227	277	222
Non-Juris./Unlicensed:				
Opened	29	43	55	60
Completed	13	43	68	51
Personal Misconduct:				
Opened	86	63	47	60
Completed	76	101	67	62
Unprof. Conduct:				
Opened	63	68	93	69
Completed	29	64	101	70
Other:				
Opened	1	7	1	0
Completed	0	8	1	0
Total:				
Opened	450*	439*	510*	461*
Completed	431*	628*	633*	472*

\* Source: Agency Statistical Profile - The ASP report does not capture data by investigation type. The by type data was collected from the CAS system. Discrepancies exist because the CAS system was not consistently updated during the first few years.

Table 8 provides an illustration of actual investigation case completion time over the past four years.

**Table 8**  
**Investigation Case Aging**  
**Fiscal Years 1992/93 Through 1995/96**

Completion Time**	1992/93	1993/94	1994/95	1995/96
Within 90 days	16	51	49	58
Within 180 days	48	35	69	75
Within 1 yr	77	109	106	116
Within 2 yrs	83	180	147	101
Within 3 yrs	38	94	127	72
Over 3 yrs	12	59	89	52

\*\*Completion time from receipt of the complaint into Board.

## **Inspections**

In 1992, the Board received the authority to conduct inspections of the books, records and premises of any licensed dentist in response to a complaint alleging that a licensee has violated any law or regulation that constitutes grounds for disciplinary action.

The Board began conducting inspections in 1993. There were 107 inspections in 1993/94; 67 inspections in 1994/95; and 67 inspections in 1995/96. It is anticipated that 80 inspections will take place in 1996/97. The majority of violations discovered during inspections fall into the category of unsafe and unsanitary conditions (44.3%) and failure to post duties (25.7%).

## **Compliance Actions**

Tables 9, 10 and 11 provide the number of compliance actions taken by the Board over the past four years. Included are the number citations and the amount of fines assessed and collected.

**Table 9**  
**Compliance Actions**  
**Fiscal Years 1992/93 Through 1994/95\***

	1992/93	1993/94	1994/95	1995/96	Average
Cite and Fine	0	33	28	40	34
Letters of Reprimand Issued	0	0	16	36	26
Notices of Warning Issued	71	202	278	223	194
<b>Violation Letters Issued</b>	0	31	44	33	36
Office Conference/ Informal Review	0	0	2	0	0
Total Compliance Actions	71	266	368	332	259

\* Source = Agency Statistical Profile

**Table 10**  
**Citations Issued/Fines Assessed and Collected**  
**Fiscal Years 1993/94 Through 1995/96\***

	1993/94	1994/95	1995/96
Citations issued	33	28	40
Fines assessed	\$17,600	\$25,550	\$38,250
Fines collected	\$15,550	\$13,600	\$20,150

\*CAS System as of 4/5/96

**Table 11**  
**Temporary Restraining Orders and Interim Orders of Suspension**  
**Fiscal Years 1992/93 Through 1995/96\***

	1992/93	1993/94	1994/95	1995/96
TROs Sought	0	1	3	0
TROs Granted	0	1	3	0
ISOs Sought	0	0	0	5
ISOs Granted	0	0	0	4

### **Disciplinary Case Activity**

Approximately 465 cases are opened for investigation each year, 31% are referred to the Attorney General for disciplinary action, and 3% are referred to the District Attorney's office for criminal action. Actual case activity is illustrated in Tables 12, 13 and 14.

**Table 12**  
**Disciplinary Case Activity**  
**Board of Dental Examiners**  
**Fiscal Years 1992/93 Through 1995/96\***

	1992/93	1993/94	1994/95	1995/96	Average
Investigation Cases Opened:	450	439	510	461	465
Attorney General Referrals:	125	148	166	134	143
Accusations:					
Filed	49	42	63	57	53
Withdrawn	10	3	2	2	N/A
Dismissed	0	1	0	0	N/A
Referral for Criminal Action	21	18	11	12	16
Board Adopted Final Decisions	37	44	56	51	47
Percentage of Opened Cases Referred to Attorney General	28%	34%	33%	29%	31%
Percentage of Opened Cases Referred for Criminal Action	5%	4%	2%	3%	3%

\*Source: Agency Statistical Profile

**Table 13**  
**Accusations Filed By Violation Type**  
**Fiscal Years 1992/93 Through 1995/96 \***

Category	1992/93	1993/94	1994/95	1995/96
<b>Fraud</b>	2	4	7	8
<b>Incompetence/ Negligence</b>	15	16	20	16
<b>Unprofessional Conduct</b>	2	3	12	16
<b>Personal Conduct</b>	28	15	19	18
<b>Health &amp; Safety</b>	3	1	1	1
<b>Other</b>	2	5	4	4

\* Source: CAS System

**Table 14**  
**Actions Taken on Disciplinary Decisions**  
**Board of Dental Examiners**  
**Fiscal Years 1992/93 Through 1995/96\***

	1992/93	1993/94	1994/95	1995/96	Average
License Probation	1	0	1	0	1
Suspension Stayed-Probation	0	1	1	1	1
Revocation Stayed-Probation	13	13	20	26	18
License Suspension	1	0	0	0	0
Suspension and Probation	2	0	0	0	1
Revocation Stayed-Suspension and Probation	6	17	22	13	15
License Revocation	12	11	10	12	11
Voluntary Surrender of License	2	2	2	2	2

\*Source: Agency Statistical Profile

## **Diversion Program**

In 1982, the State Legislature gave the Board the authority to establish a diversion program for alcohol and substance-abusing licensees. The legislative intent was to implement the diversion program as a voluntary alternative to traditional disciplinary actions.

Currently the Board, in a joint venture with other healing art boards, contracts with Occupational Health Services (OHS) to provide the initial evaluation and assessment of the program applicants and participants, day-to-day monitoring and ongoing case management.

There are three ways to enter the diversion program: self-referral, Board referral, and probationers. If probationers, or those referred by the Board, must complete the diversion program or be subject to further disciplinary action. Table 15 below reflects actual participation in the program for the past four years.

**Table 15**  
**Diversion Program Participation**  
**Fiscal Year 1992/93 Through 1995/96**

	1992/93	1993/94	1994/95	1995/96
Participants	48	50	69	55

Table 16 provides a detailed look at completed diversion cases over the past four years, and their outcome.

**Table 16**  
**Diversion Cases Closed**  
**Fiscal Years 1991/92 Through 1994/95**

	1992/93	1993/94	1994/95	1995/96
<b>Successful Completion</b>	15	9	11	7
<b>Non-Compliance</b>	5	4	5	1
<b>Withdrawals</b>	5	2	4	3
<b>Not Eligible</b>	3	2	1	2
<b>Total Closed</b>	28	17	21	13

Table 17 provides the administrative costs paid to the Board's service provider (OHS) over the past four years. Expenses related to the diversion program are currently paid for from the license fees collected.

**Table 17**  
**Diversion Program Costs**  
**Fiscal Years 1992/93 Through 1995/96**

	1992/93	1993/94	1994/95	1995/96
<b>Board expense</b>	\$92,598	\$107,925	\$129,791	\$139,839

## **COST RECOVERY AND RESTITUTION TO CONSUMERS**

Legislation which took affect January 1993, gave the Board cost recovery authority. The Board anticipates recovering at least 50% of the investigative costs in the future. Table 18 depicts the amount or cost recovery requested in each of the last four years and the amount received.

**Table 18**  
**Cost Recovery Requested and Received**  
**Fiscal Years 1992/93 Through 1995/96\***

	1992/93	1993/94	1994/95	1995/96
Requested	\$31,975	\$18,596	\$72,972	\$332,263
Received**	\$57,338	\$57,316	\$58,408	\$74,503

\*Source: CAS System

\*\*Amounts requested and received have no relationship within a fiscal year due to prearranged payment schedules.

Since 1972, the Board has been authorized to request restitution to be made to consumers. The Board began tracking the amount of restitution provided to the consumer in fiscal year 1994/95. Table 19 reflects the amount refunded to consumers for the past two years.

**Table 19**  
**Restitution to Consumers**  
**Fiscal Years 1994/95 Through 1995/96\***

	1994/95	1995/96
Amount refunded to consumers	\$119,383	\$115,702
Rework at no-charge	\$51,406	\$21,244
Adjustments in money owed or refunds	\$54,268	\$17,196
Total Savings Achieved	\$225,057	\$154,142

## **COMPLAINT DISCLOSURE POLICY**

The public has access to formal disciplinary actions such as the filing of an accusation against a licensee by the Attorney General, final disciplinary decisions or administrative citations. Ongoing complaints (still under investigation by the Board) and complaints that have been closed without any formal disciplinary action being taken (e.g., insufficient evidence of violation) are not disclosed to the public.

## 2.

### IDENTIFIED ISSUES AND FINAL RECOMMENDATIONS OF THE JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE

#### ISSUE #1. Should the State continue to license the practice of dentistry?

**Recommendation:** *The State of California should continue to regulate the practice of dentistry.*

**Comment:** Consumers rely on dentists for a broad range of medical services related to oral health care. The dentist's diagnosis and treatment of diseases, or other associated problems involving the teeth, gums, jaw, or other associated parts of the mouth, requires professional judgment and complex, technical skills which, if performed incompetently, could cause patient harm or death. Patients are usually unable to judge either the quality of dental work or dentist's credentials, and believe that dentists should be regulated. All states regulate the practice of dentistry.

#### ISSUE #2. Should the State continue to license dental assistants, dental hygienists, dental assistants in extended functions, and dental hygienists in extended functions?

**Recommendation:** *The State should continue to regulate all licensure classes currently regulated by the Board.*

**Comment:** Licensure was extended to dental assistants and dental hygienists in order to enable dentists to delegate more functions to dental auxiliaries, increase the pool of providers to provide dental services, and to assure they would be minimally competent to perform dental care on the public. Functions performed by dental auxiliaries are not always under the direct supervision of the dentist, and could cause serious harm to a patient if not performed in a competent manner. Although few complaints are filed, and few disciplinary actions taken against dental auxiliaries, this may be due in part to the consumer's belief that the dentist who employs and supervises a dental hygienist or assistant is the primary person responsible. However, supervision and employment by a dentist is not a substitute for licensure, given the increasing technological advances and complexity of dental procedures, and the potential for expanding auxiliaries' scope of practice.



**ISSUE #3. Should the State license all dental assistants who work for dentists?**

**Recommendation:**

*The State should not require the licensure of all dental assistants who work directly for licensed dentists, and who perform relatively simple dental procedures.*

**Comment:** Licensure is not required for some dental personnel, namely dental assistants, for whom no specific education, training or examination is required. Essentially, these persons are trained and supervised “on-the-job” by their licensed dentist employer. They perform relatively simple dental procedures, or general office duties. Absent documentation of significant harm to patients or performance of unauthorized duties, there appears to be no compelling reason to impose licensure requirements on this particular branch of dentistry.

**ISSUE #4. Should registered dental hygienists be allowed to practice without the supervision of a licensed dentist (i.e., in independent practice settings)?**

**Recommendation:**

*The Joint Committee does not support the expansion of practice of registered dental hygienists until further analysis is performed. The Board should provide for an independent review of recommendations made by COMDA pursuant to an occupational analysis which is now being performed on the practice of dental hygienists. The Board should also review the experience of other states in permitting dental hygienists to practice in independent settings. The Board should report its findings and recommendations to the Legislature by July 1, 1998.*

**Comment:** This issue was referred to the Joint Committee for consideration by the Senate Business and Professions Committee. There have been a number of legislative attempts to allow registered dental hygienists to practice in independent practice settings as a way to increase access to dental care for underserved segments of the population, and possibly decrease overall costs. All have failed. This has been a very contentious issue for both dentists and dental hygienists. There has been dispute over whether dental hygienists have the education and training to perform dental care in an independent setting, what actual cost savings would be to the patient, and whether there is a lack of dental care (or access problem) in California.

Current law allows for the Board to review the duties (or functions) of the dental assistants, decrease the requirements for their supervision, and permit them to practice in other settings. There has been no such review for dental hygienists. The Board and the dental profession have consistently opposed any proposal for dental hygienists to practice in other settings (e.g., nursing homes, clinics, hospitals, health facilities, private offices) without the supervision of a licensed dentist.

It does not appear as if the Board has conducted an independent evaluation, or adequate review of this issue. The Committee on Dental Auxiliaries (COMDA) is currently performing an occupational analysis of the registered dental hygienists which may result in recommendations to expand scopes of practice and/or reduce the level of dentist supervision. There are also several other states which have experience in allowing dental hygienists to practice in independent settings.

---

**ISSUE #5. Should an independent Board of Dental Examiners be continued, or should its operation and functions be assumed by the Department of Consumer Affairs?**

**Recommendation:** *The Board of Dental Examiners should continue to be the agency responsible for the regulation of the practice of dentistry. As such, legislation should be enacted to continue the Board and require a subsequent sunset review in six years.*

**Comment:** There does not appear to be any administrative efficiencies or cost savings to be gained from eliminating the Board and having its regulatory functions assumed by the Department. The Board has consistently carried out its legal mandates, and has operated in the best interest of the public and the profession it regulates.

---

**ISSUE #6. Should the composition of the Board of Dental Examiners be changed?**

**Recommendation:** *No change.*

**Comment:** The Board has a total of 14 members. It has a majority of professionals with 8 dentists, 1 dental hygienist, 1 dental assistant, and 4 public members. There was no justification provided for the almost 2 to 1 majority of dentists on the Board. It is also unique when compared to other boards, which are either public majority, or include a smaller ratio of professional to public members.

---

**ISSUE #7. Should the standing committee of the Board, dealing with auxiliary matters, be allowed to review all recommendations presented by the Committee on Dental Auxiliaries (COMDA)?**

**Recommendation:** *The Joint Committee is recommending that COMDA should manage its duties as a “direct statutory committee” of the Board of Dental Examiners. To assure there is no conflict in the role of COMDA to the Board, the standing committee of the Board dealing with auxiliary matters should be eliminated.*

**Comment:** The Committee on Dental Auxiliaries (COMDA) currently submits all recommendations concerning auxiliary matters to a standing committee of the Board. The standing committee is made up of three (3) dentists, one (1) dental hygienist and (1) dental assistant. This standing committee screens all recommendations made by COMDA and provides a separate report to the Board on any aspect of auxiliary practice.

The Legislature intended for COMDA to provide recommendations concerning dental auxiliary practice directly to the full Board for review, not to have its recommendations screened by a standing committee made up of a majority of dentists. The standing committee decisions are duplicative of the work already performed by COMDA, and therefore, it is recommended that this committee be eliminated.

---

**ISSUE #8. Should the current authority for the Board to hire its own sworn peace officers be eliminated?**

**Recommendation:** *The authority of the Board to employ sworn peace officers on its own staff to perform disciplinary investigations should be eliminated.*

**Comment:** The Board currently has 14 authorized sworn peace officer positions. These officers perform investigations for the Board's enforcement program. The Board is one of only 3 licensing boards to have its own peace officers (the other two being the Medical Board and Contractors' Board). Given the nature of the violations the board investigates, the high cost associated with employing sworn peace officers, and the Board's pending fund deficit -- it is not clear why the Board needs to continue employing sworn peace officers to perform all investigations. The Department's Division of Investigation could be utilized when investigations called for the use of sworn peace officers.

---

**ISSUE #9. Should out-of-state dentists be required to take the California examination, or should the State permit for "licensure by credential" as recommended by the Board?**

**Recommendation:** *The Joint Committee supports the concept of licensure by credential and the Board's efforts in this area.*

**Comment:** Currently, if an individual wishes to practice dentistry in the State of California and is already licensed in another state, that dentist must pass the written national exam and pass the State's general practical exam. The Board is currently creating a less burdensome process by eliminating the requirements to sit for the California's practical exam and making additional licensure dependent on the dentist's years in practice and enforcement record.